

# DECLARATORY RESOLUTION

NO. 708 - 1938

For the condemnation of a right-of-way for intercepting sewer purposes across, through and under the following described real estate, to-wit: Beginning at a point on the south line of Lake Avenue (123.5) east of the east line of Pemberton Drive, thence east along the south line of Lake Avenue a distance of (165.5) feet thence south parallel to and (239) feet east of the east line of Pemberton Drive, etc. etc.

APPROVE-ADOPT: Sept. 8, 1938

NOT. PROP. OFFERS: Sept. 10-17, 1938

CONFIRMED: Thurs. Sept. 29, 1938

ASSESS. ROLL ORD: " " " " 7:30 P.M.

ASSESS. ROLL APPROVED: Dec. 20, 1938  
10:00 A.M.

CONFIRMED: Thur. Jan. 5, 1939,  
7:30 P.M.

*See Declaration  
Sewer, Lake Avenue  
(20 ft. from north bank  
Pemberton)*

1950 MAR 27 PM 2:19

DECLARATORY RESOLUTION NO. 708-1938

For the condemnation of a right of way for intercepting sewer purposes across, through and under the following described real estate, to-wit: Beginning at a point on the south line of Lake Avenue one hundred twenty-three and five-tenths (123.5) feet east of the east line of Pemberton Drive, thence east along the south line of Lake Avenue a distance of one hundred sixty-five and five-tenths (165.5) feet, thence south parallel to and two hundred eighty-nine (289) feet east of the east line of Pemberton Drive a distance of ninety-four (94) feet, thence west a distance of eighty (80) feet, thence south parallel to and two hundred nine (209) feet east of the east line of Pemberton Drive to the northerly line of the Maumee River, thence south westerly along the northerly line of the Maumee River to a point, which point is the intersection of a line parallel to and one hundred twenty-three and five-tenths (123.5) feet east of the east line of Pemberton Drive and the northerly line of the Maumee River, thence north parallel to and one hundred twenty-three and five-tenths (123.5) feet east of the east line of Pemberton Drive to the south line of Lake Avenue, which point is the place of beginning, situated in the West one-half (1/2) of Section Six (6), Township Thirty (30) North, Range Thirteen (13) East, Allen County, Indiana, and lying outside of the corporate limits of the City of Fort Wayne.

Resolved by the Board of Public Works of the City of Fort Wayne, Indiana, that it is deemed necessary to condemn and acquire the use and fee simple title for a right of way for intercepting sewer purposes, across, through and under the following described real estate, to-wit:

Beginning at a point on the south line of Lake Avenue one hundred twenty-three and five-tenths (123.5) feet east of the east line of Pemberton Drive, thence east along the south line of Lake Avenue a distance of one hundred sixty-five and five-tenths (165.5) feet, thence south parallel to and two hundred eighty-nine (289) feet east of the east line of Pemberton Drive a distance of ninety-four (94) feet, thence west a distance of eighty (80) feet, thence south parallel to and two hundred nine (209) feet east of the east line of Pemberton Drive to the northerly line of the Maumee River, thence south westerly along the northerly line of the Maumee River to a point, which point is the intersection of a line parallel to and one hundred twenty-three and five-tenths (123.5) feet east of the east line of Pemberton Drive and the northerly line of the Maumee River, thence north parallel to and one hundred twenty-three and five-tenths (123.5) feet east of the east line of Pemberton Drive to the south line of Lake Avenue, which point is the place of beginning, situated in the West one-half (1/2) of Section Six (6), Township Thirty (30) North, Range Thirteen (13) East, Allen County, Indiana, and lying outside the corporate limits of the City of Fort Wayne.

The condemnation of the right of way as above described to be made by condemning and appropriating for sewer right of way the following described real estate, to-wit:



Beginning at a point on the south line of Lake Avenue one hundred twenty-three and five-tenths (123.5) feet east of the east line of Pemberton Drive, thence east along the south line of Lake Avenue a distance of one hundred sixty-five and five-tenths (165.5) feet, thence south parallel to and two hundred eighty-nine (289) feet east of the east line of Pemberton Drive a distance of ninety-four (94) feet, thence west a distance of eighty (80) feet, thence south parallel to and two hundred nine (209) feet east of the east line of Pemberton Drive to the northerly line of the Maumee River, thence south westerly along the northerly line of the Maumee River to a point, which point is the intersection of a line parallel to and one hundred twenty-three and five-tenths (123.5) feet east of the east line of Pemberton Drive and the northerly line of the Maumee River, thence north parallel to and one hundred twenty-three and five-tenths (123.5) feet east of the east line of Pemberton Drive to the south line of Lake Avenue, which point is the place of beginning, situated in the West one-half ( $1/2$ ) of Section Six (6), Township Thirty (30) North, Range Thirteen (13) East, Allen County, Indiana, and lying outside of the corporate limits of the City of Fort Wayne.

All as shown by a plan of such proposed condemnation of said right of way now on file in the office of the Department of Public Works of said City.

All according to the method and manner provided for in an act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations," approved March 6th, 1905, and the provisions of all acts amendatory thereto and supplemental thereof, and "An Act to authorize cities and towns to construct, own, equip, operate, maintain and improve works for the treatment and for the disposal of sewage; to authorize charges against owners of premises for the use of such works and to provide for the collection of same; to authorize cities and towns to issue revenue bonds payable solely from the revenues of such works and to make such bonds exempt from taxation and to make them lawful investments of sinking funds; to authorize contracts for the use of such works by other cities, towns and political subdivisions and charges against owners of premises therein served thereby; and declaring an emergency," approved August 17th, 1932, and the provisions of all acts amendatory thereto and supplemental thereof.

That the Board of Public Works of the City of Fort Wayne desires and deems it necessary for the City of Fort Wayne that the use and fee simple title of said aforementioned real estate be condemned and appropriated for intercepting sewer purposes.

That the City of Fort Wayne will be benefited by acquiring the use and fee simple title on the part of the City of said real estate and ground herein described, and which real estate is hereby proposed to be condemned and appropriated. That no other property is injuriously effected excepting the property herein to be condemned and appropriated and that the City of Fort Wayne is or will be benefited to the full extent of any damage caused by the appropriation and condemnation.

1880

1880

1880



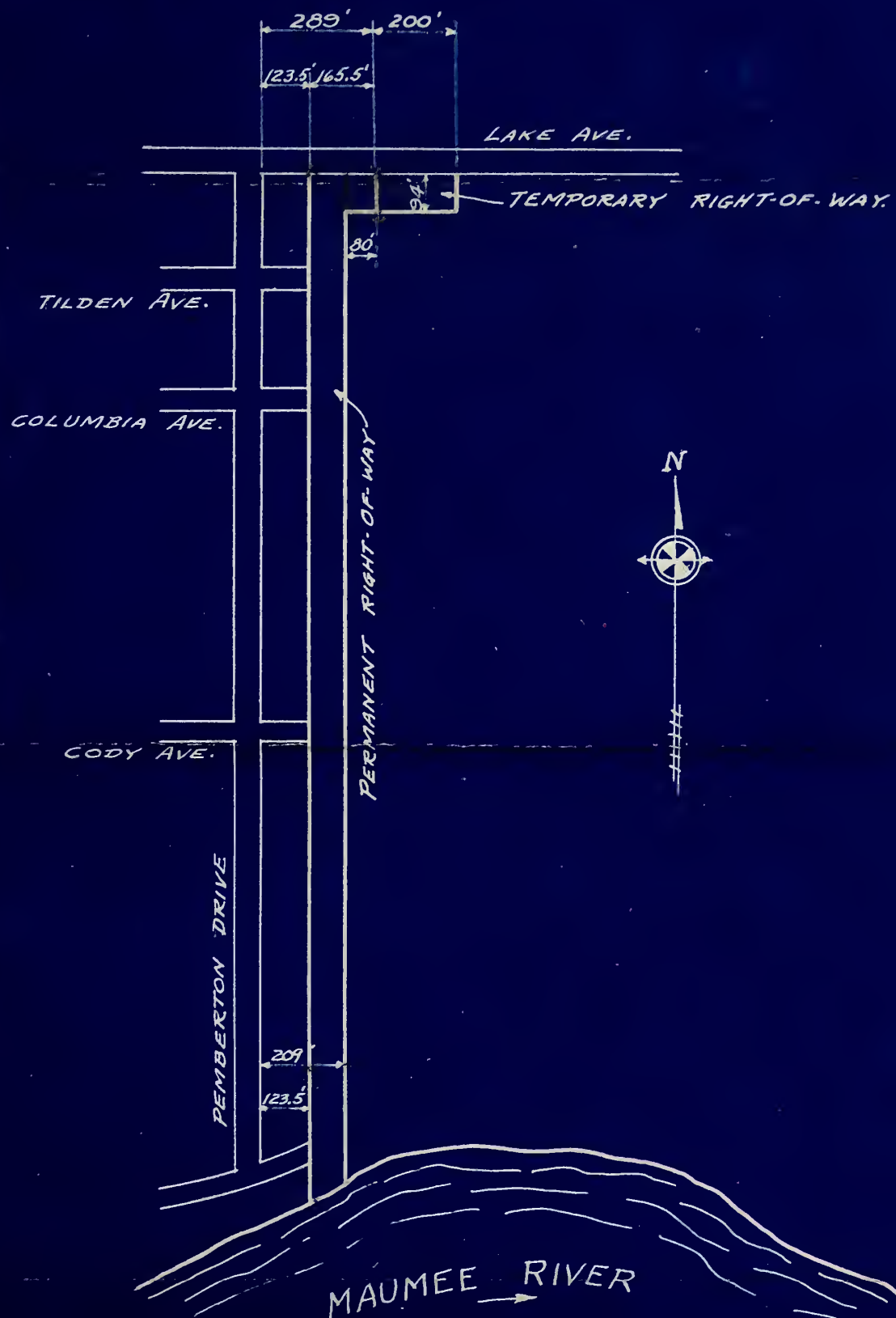
That payment for damages shall be made pursuant to the provisions and conditions of Chapter 61 of the 1932 Acts of the General Assembly of the State of Indiana, Special Session.

Adopted this 8<sup>th</sup> day of September, 1938.

A. J. Henderson

*H. Johnson*

COMPIRED  
WITH  
PHOTOSTAT



CITY OF FORT WAYNE, INDIANA.  
 PLAT ACCOMPANYING DESCRIPTION  
 OF LAND REQUIRED FOR  
 NORTHEAST OUTFALL SEWER  
 CHAS. W. COLE  
 CONSULTING ENGINEER SOUTH BEND, INDIANA.

1. 2. 3. 4. 5. 6. 7. 8. 9. 10.

11. 12. 13. 14. 15. 16. 17. 18. 19. 20.

21. 22. 23. 24. 25. 26. 27. 28. 29. 30.

31. 32. 33. 34. 35. 36. 37. 38. 39. 40.



3946

3954

When Bishop Hall purchased tract of land  
for C C H & as Clinton & Lewis 9/20/37

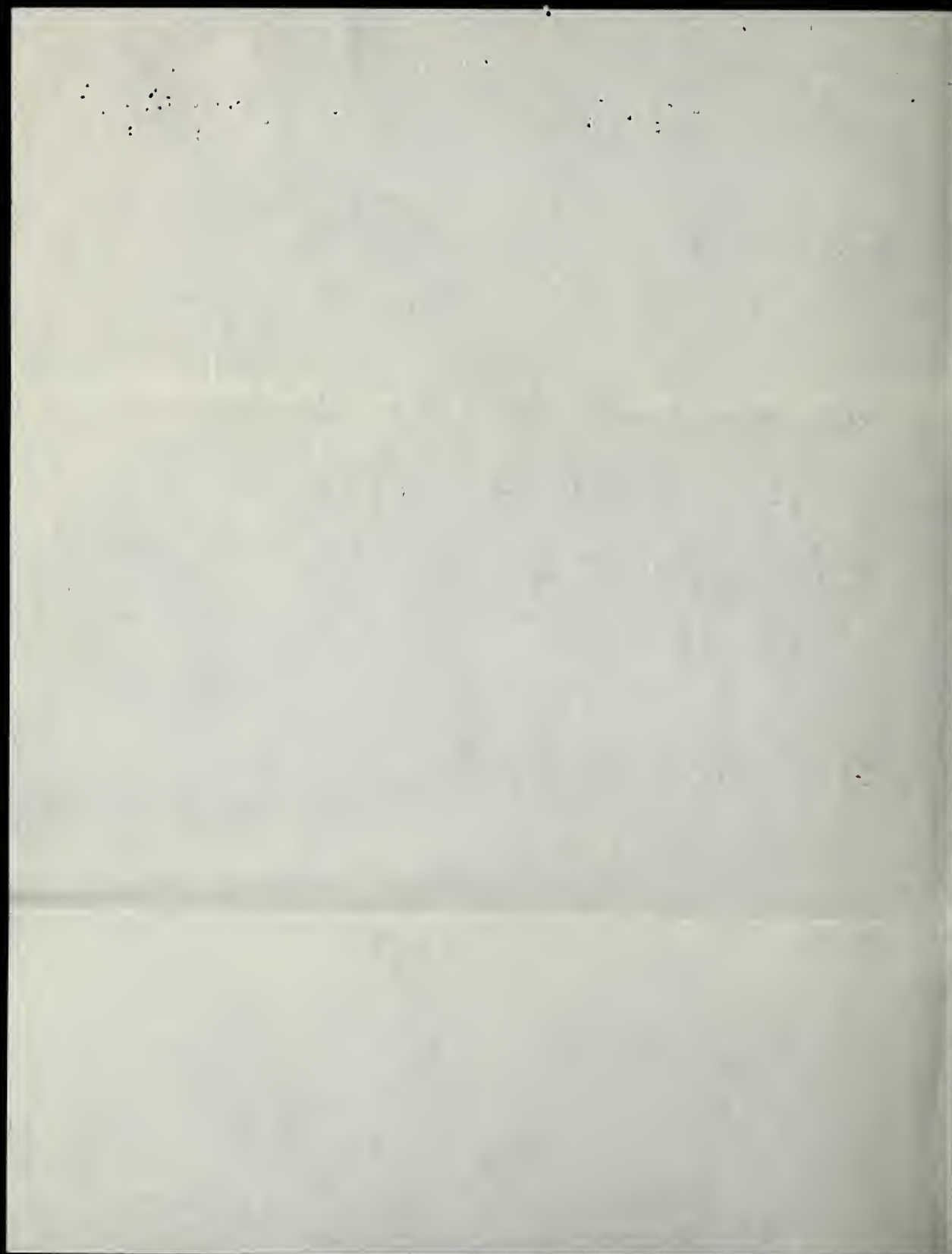
Allen Hamilton & Jester Hamilton as Trustees  
under will of Phoebe A Hamilton  
conveyed real estate.

Jester was then of Middlesex Co. Conn  
9/20/37

95-527-528

331-522

Deed Recd  
1/20/38  
Jester  
Examined  
25



123 1/2

165.5

123 1/2



✓ Jessie Hamilton	(Daughter)	7/11
Agnes	"	"
Allen	Son	"
Jake	"	Chile Pa
Andrew	Grandson	7/11
Jake	"	Chile Pa
Wm A. B.	"	"
Chas	Granddaughter	"

(Heirs of Chas)

9/20/37

Allen & Jessie are Trustees under  
will of Chas

~~as per will~~

Will Record 27 333

Board of Works  
Fort Wayne, Ind.

Gentlemen:

In accordance with your request we are handing you herewith grant of permanent easement through the 20 ft. strip paralleling the Maumee River, being a part of the tract of ground owned by us and lying directly east of the east City line and north of the Maumee River.

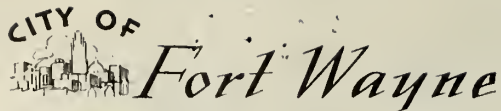
We are also consenting to the temporary use by the City of all our property between the proposed center line of the sewer referred to in the enclosed grant of easement and the Maumee River and the strip of property 40 ft. in width, north of, immediate to, and parallel to such center line, to be used by you in connection with the construction of the proposed sewer until its completion, which, however, shall not be later than June 15, 1940.

This grant of easement and temporary license for use is given upon the understanding and condition that the sewer is to be constructed in accordance with the contract of installation now being let by the City of Fort Wayne, showing an average depth of the sewer of approximately 14-1/2 ft. below the present level of the ground, and the construction of a 42 inch reinforced drainage outlet for the existing natural drainage of the above mentioned tract owned by us; and upon the further understanding that you will cause the contractor installing this sewer to place all surplus dirt along the line of the proposed dike and will also cause the contractor installing the Clinton Street sewer to deliver a substantial part of the surplus dirt resulting from the construction of that sewer, along the line of the proposed dike if the condition of the ground permits hauling such dirt along such line, otherwise such dirt to be piled in the southwest corner of our tract; the placing of all such dirt to be without cost to us. The location of the dike is shown on the plan heretofore prepared by your engineers, Charles W. Cole & Son.

It is also understood that the allowance of damages heretofore granted us in the amount of Four Thousand Dollars (\$4,000) pursuant to Declaratory Resolution No. 708-1938, will be paid to us immediately.

Record # 24  
Page 128

Allen Hamilton  
Jessie Hamilton



FORT WAYNE, INDIANA

January 4, 1939

OFFICE OF  
LEGAL DEPARTMENT

Mr. Robert G. Beams, Chairman  
Board of Public Works  
City Hall  
Fort Wayne, Indiana

Dear Mr. Beams:

Sometime ago I received a description from your office on the Hamilton property requesting that I prepare a deed to the City of Fort Wayne.

Before I can prepare the deed it will be absolutely necessary that I have before me an abstract of title showing the legal owners of this property or the names of the legal owners if you are satisfied that they are correct. Likewise, the consideration must be stated in the deed. On receipt of this information I shall prepare the deed.

Sincerely yours,

WALTER E. HELMKE

WEH:JS

*Dr. Allen Hamilton &  
Trustees Phoebe Hamilton Estate*

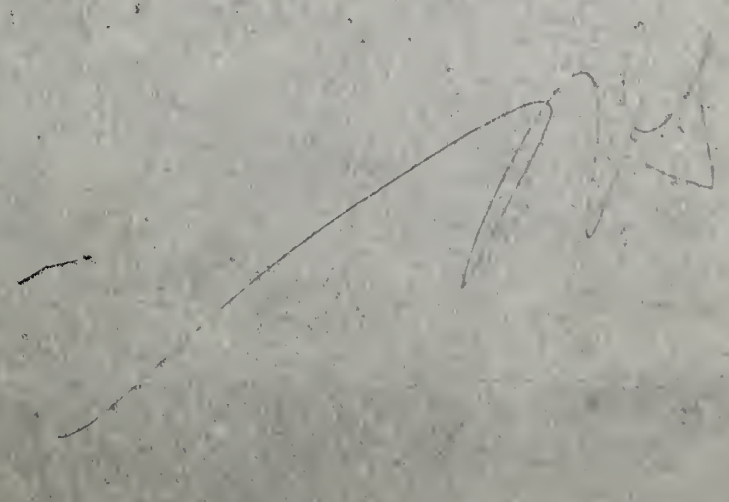


OUTFALL CHANNEL

NORTH EAST INTERCEPTOR SEWER AND APPURTENANCES

FORT WAYNE, INDIANA

Beginning at a point on the south line of Lake Avenue one hundred twenty-three and five-tenths (123.5) feet east of the east line of Pemberton Drive, thence east along the south line of Lake Avenue a distance of one hundred sixty-five and five-tenths (165.5) feet, thence south parallel to and two hundred eighty-nine (289) feet east of the east line of Pemberton Drive to the northerly line of the Maumee River, thence southwesterly along the northerly line of the Maumee River to a point which is the intersection of a line parallel to and one hundred twenty-three and five-tenths (123.5) feet east of the east line of Pemberton Drive and the northerly line of the Maumee River, thence north along a line parallel to and one hundred twenty-three and five-tenths (123.5) feet east of the east line of Pemberton Drive to the south line of Lake Avenue which is the point of beginning, containing nine and seventy-two one-hundredths (9.72) acres more or less.





GRANT OF EASEMENT

THIS INDENTURE, Made between ALLEN HAMILTON and JESSIE HAMILTON, TRUSTEES, of Allen County, in the State of Indiana, as grantors, and CITY OF FORT WAYNE, located in Allen County, State of Indiana, as grantee, WITNESSETH, That:

WHEREAS, the grantors above named are the owners of a tract of land in Allen County, Indiana, lying directly east of the limits of the City of Fort Wayne, extending from the north bank of the Maumee River north to the south line of Lake Avenue and having a frontage on the said Lake Avenue of approximately ten hundred fifty-seven (1057) feet; and

WHEREAS, the grantee above named desires to secure an easement for the construction and maintenance of a sewer through the above described tract and along the bank of the said Maumee River:

NOW THEREFORE, the said Allen Hamilton and Jessie Hamilton, Trustees, do hereby grant, sell, bargain and convey to CITY OF FORT WAYNE, located in Allen County, in the State of Indiana, for and in consideration of ONE DOLLAR (\$1.00) receipt whereof is hereby acknowledged, an easement and right-of-way in and over the following described premises in Allen County, State of Indiana:

A strip of land twenty (20) feet in width, the center line of which strip is described as follows:  
Beginning at a point on the east property line of the Hamilton Tract two thousand two hundred thirty-eight and twenty-seven hundredths (2238.27) feet south of the northeast corner of said tract, thence south eighty-nine (89) degrees and seven (7) minutes west a distance of three hundred ninety-one and eight tenths (391.8) feet, thence south eighty-three (83) degrees and twenty-eight (28) minutes west a distance of seven hundred forty-nine and two tenths (749.2) feet to the center point of a manhole on the existing twenty-four (24) inch sanitary outfall sewer.

To be used by the said City for the construction, operation and maintenance of a sewer line under the surface of the ground, and the grantee of said easement is fully authorized and empowered to enter upon the above described premises at any time for the purpose of constructing, maintaining or repairing its said line of sewer.

The grantors herein reserve to themselves, their heirs, executors, administrators, grantees and assigns the right to enter upon, erect, maintain and repair a dike upon and over the real estate through which the above easement is granted; but this reservation shall not be construed as imposing any duty or obligation upon the grantors herein, their heirs, administrators, executors, grantees and assigns to erect or maintain such dike.

IN WITNESS WHEREOF, the said grantors have hereunto set their hands and seals this 28th day of December, 1939.

Allen Hamilton  
Jessie Hamilton

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF ALLEN )

Before me, a Notary Public in and for the above County and State, personally appeared Allen Hamilton and Jessie Hamilton, Trustees, and acknowledged the execution of the foregoing grant of easement for the uses and purposes therein mentioned.

Witness my hand and seal this 28th day of December 1939.

Alma Gerwig  
Notary Public

My commission expires  
November 14, 1941



10535

9

RECORDED

RECORD. 378 PAGE 43

1030 SEP 28 1943 P.M.

*Heater C. Hansen.*  
RECORDER, ALLEN COUNTY, INDIANA

100



Improvement Res. No.

Resolution Adopted:

Confirmed:

Bids Received:

Contract Awarded:

Contract and Bond:

Contractor:

Reported Completed:

Assessment Roll Confirmed: